UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/185,703	11/04/1998	FREDERICK R. GUY	06053.0001-0	5673

7590 04/11/2003

Mr. John F. Sweeney
mORGAN & FINNEGAN
345 Park Avenue
New York, NY 10154

EXAMINER	
CHENG, JOE H	
ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/185,703	GUY ET AL.	
	Examiner	Art Unit	
	Joe H. Cheng	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 January 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *20-77* is/are pending in the application.

4a) Of the above claim(s) *25-37,39,40,46-58,60,61 and 74-77* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *20-24,38,41-45,59 and 62-73* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. In response to the Amendment filed on January 8, 2003, claims 20-77 are pending.

Election/Restriction

2. Applicant's election with traverse of invention Group I in Paper No. 10 is acknowledged. The traversal is on the ground(s) that searching these different groups of inventions would not be unduly burdensome. This is not found persuasive because each group of invention is prima facie independent and distinct inventions due to its recitations of distinct and specific structure, and has acquired a separate status in the art because of their recognized divergent subject matter. In addition, these inventions are mutually exclusion of resolution between each other for the reasons set forth in the prior Office Action, a serious burden on the examiner is shown by appropriate explanation of separate classification or separate status in the art, or a different field of search as defined in MPEP § 808.02, restriction for examination purposes as indicated is proper. Since applicant fails to prove or provide evidence, and did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP 818.03(a)). Hence, the requirement is still deemed proper and is therefore made **FINAL**.

3. Claims 25-37, 39, 40, 46-58, 60, 61 and 74-77 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention, namely Groups II-VI, the requirement having been traversed in Paper No. 10.

Specification

4. The disclosure is objected to because of the following informalities: The term "This is a continuation of application Serial No. 08/590,640, filed January 24, 1996, which is incorporated herein by reference." Should be recited as --This is a continuation of U.S. Application Serial No. 08/590,640, filed January 24, 1996, now U.S. Patent No. 5,833,468, which is incorporated herein by reference.--, so as to clarify the status. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 45, 59 and 62-73 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The references for "data" (as per claim 45) is unclear and confusing, because it is not understood as to whether it is referred to the integrated data from the host server or the data provided by the user. In addition, the reference for the "client computers are capable of controlling display data on other remoter clients in real time by means of data sent with the broadcasted combined signal" (as per claim 71) is also unclear, because it is not understood as to how the client computer can control the display data on the other remote clients, and it is also not understood as to how the client computer can sent the broadcasted combined signal. Moreover, the reference for "means for delivering e-mail" (as per claim 72) is also unclear. Further, the preamble of the claimed method (as per claims 62-73) are misdescriptive and confusing, because the claimed structural elements are directed to apparatus and none of the

method steps have been clearly claimed. Furthermore, the antecedent basis for "video" (as per claim 45), "the audio-visual stream" (as per claim 63) and "rear end portion of the bendable link mechanism" (as per claim 11) has not been clearly set forth. The term "and/or" (as per claim 68) is vague and indefinite, because it is an alternate expression and is subjected to more than one interpretation. Finally, claim 59 is rejected as indefinite, because it is the duplicate of claim 38.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 20, 21, 24, 38, 41, 42, 45and 59 as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Mullett (U.S. Pat. No. 5,655,214). Figs. 1-3 of Mullett broadly discloses the method, the computer-readable medium, or the system for remote communication comprising at least one host server (1, 31) for integrating/combining data received from at least one of a plurality of client computers (13, 41) with the television signal and broadcasting the television signal and the client computer for receiving, tuning the tuner card for separating the integrated data from the television signal into video and data display, and presenting the video and data in separate area of the display device (42) (see from column 2, line 37 to column4, line 40).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 22, 23, 43, 44 and 62-73 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Mullett (U.S. Pat. No. 5,655,214) in view of Throckmorton et al (U.S. Pat. No. 5,818,441).

As per claims 22, 23, 43, 44, 62-64, 66-70 and 73, it is noted that the teaching of Mullett does not specifically disclose the user interface (as per claims 22 and 43), data from one client computer is addressed to at least one other client computer (as per claims 23 and 44), or data from another computer electronically connected to the host (as per claim 62) as required. However, Figs. 1-5 of Throckmorton et al broadly discloses the user interface (88) for presenting the video and data and for receiving input data to be sent to the host server, and data from one client computer (34) is addressed to at least one other client computer thru the Internet, or data from another computer electronically connected to the host (see from column 3 line 36 to column 9, line 25). Hence, it would have been obvious to one of ordinary skill in the art to modify the method, the computer-readable medium, or the system of Mullett with the features of the user

interface, data from one client computer is addressed to at least one other client computer, or data from another computer as taught by Throckmorton et al as both Mullett and Throckmorton et al are directed to the method, the computer-readable medium, or the system for remote communication, so as to provide the user of the remote client computer to communicate with the host facility and at least one of the plurality of client computer.

As per claims 65, 71 and 72, it is noted that the teachings of Mullett and Throckmorton et al do not specifically disclose that the features of a chat feature in real time (as per claim 65) or means for delivering e-mail (as per claim 72), or client computers are capable of controlling display data on other remote client (as per claim 71) as required. However, such limitations of on-line chat room or e-mail, or client computers are capable of controlling display data on other remote client are old and well known, and are considered arbitrary and obvious design choice, so as to provide an interactive multimedia real time communication.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Harrison et al (U.S. Pat. No. 6,064,420) - note Figs. 1-13;

Perlman et al (U.S. Pat. No. 6,141,693) - note Figs. 1-21.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe H. Cheng whose telephone number is (703)308-2667. The examiner can normally be reached on Mon. - Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703)308-4119. The fax phone numbers

for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Joe H. Cheng
Primary Examiner
Art Unit 3713

Joe H. Cheng
April 7, 2003